

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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|------------------------|---|-------------------------|
| MICHAEL S. AGOVINO, | : | No: 4:10-CV-0656 |
| | : | |
| Plaintiff | : | (Judge McClure) |
| vs. | : | |
| | : | Complaint Filed 3/25/10 |
| CHRISTOPHER A. BAILES, | : | JURY TRIAL DEMANDED |
| | : | |
| Defendant | : | |

**PLAINTIFF'S STATEMENT OF FACTS IN SUPPORT OF MOTION FOR
PARTIAL SUMMARY JUDGMENT**

1. The Complaint in this case alleges that on March 22, 2009 the Defendant, Christopher A. Bailes committed a battery by intentionally and knowingly subjecting Plaintiff, Michael S. Agovino, to a harmful and offensive touching by punching him in the face several times with his fists, fracturing his left nasal bones, fracturing his jaw and loosening several teeth.

2. An Information filed against Defendant Bailes in Union County, a copy of which is attached to Plaintiff's Motion for Summary Judgment as Exhibit 1, alleged in Count II that Defendant Bailes committed a simple assault in violation of 18 Pa C.S.A. § 2701(a)(1) by intentionally, knowingly, or recklessly causing bodily injury to another by striking Michael Agovino several times in the face causing a broken nose, broken jaw and several damaged teeth.

3. A transcript of Defendant Bailes' Guilty Plea Hearing is attached to Plaintiff's Motion as Exhibit 2.

4. The prosecuting attorney recited the government's evidence showing

that Defendant Bailes punched the victim causing a broken jaw, a broken nose and several loose teeth. Transcript at page 3.

5. Defendant Bailes was placed under oath. Id. He acknowledged that he was pleading guilty to Count II and other charges. Id. at page 5.

6. He advised the court that it was his decision to plead guilty. Id. at page 7.

7. The court asked him: "Did you commit the offenses to which you are pleading guilty?" Defendant Bailes answered the court stating: "I did, Your Honor." Id.

Respectfully submitted,

ELION, WAYNE, GRIECO, CARLUCCI,
SHIPMAN, DINGES & DINGES, P.C.

BY s/David C. Shipman

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CERTIFICATE OF SERVICE

David C. Shipman, Esquire, hereby certifies and says that on this 7th day of December, 2010, he served a copy of the Plaintiff's Statement of Facts in Support of Motion for Partial Summary Judgment upon the following by mailing a copy of same to the above-show address, postage prepaid, first class mail:

Christopher A. Bailes
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